

## Homeland Security Department

## Pt. 3003

Secretary has designated a program or project as a major system. This corresponds to a DHS Level 1 or 2 capital investment acquisition.

*Micro-purchase threshold* is defined as in (FAR) 48 CFR 2.101, except when (HSAR) 48 CFR 3013.7003(a) applies.

*Senior Procurement Executive (SPE)* for the Department of Homeland Security is the Chief Procurement Officer (CPO).

*Sensitive Information* as used in this Chapter, means any information, the loss, misuse, disclosure, or unauthorized access to or modification of which could adversely affect the national or homeland security interest, or the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense, homeland security or foreign policy. This definition includes the following categories of information:

(1) Protected Critical Infrastructure Information (PCII) as set out in the Critical Infrastructure Information Act of 2002 (Title II, Subtitle B, of the Homeland Security Act, Pub. L. 107-296, 196 Stat. 2135), as amended, the implementing regulations thereto (6 CFR part 29) as amended, the applicable PCII Procedures Manual, as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the PCII Program Manager or his/her designee);

(2) Sensitive Security Information (SSI), as defined in 49 CFR part 1520, as amended, "Policies and Procedures of Safeguarding and Control of SSI," as amended, and any supplementary guidance officially communicated by an authorized official of the Department of Homeland Security (including the Assistant Secretary for the Transportation Security Administration or his/her designee);

(3) Information designated as "For Official Use Only," which is unclassified information of a sensitive nature and the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs

or operations essential to the national or homeland security interest; and

(4) Any information that is designated "sensitive" or subject to other controls, safeguards or protections in accordance with subsequently adopted homeland security information handling procedures.

*Simplified acquisition threshold* is defined as in (FAR) 48 CFR 2.101, except when (HSAR) 48 CFR 3013.7004 applies.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25767, May 2, 2006; 71 FR 48801, Aug. 22, 2006; 72 FR 1297, Jan. 11, 2007; 73 FR 30318, May 27, 2008; 75 FR 41099, July 15, 2010]

### Subpart 3002.2—Abbreviations

#### 3002.270 Abbreviations.

CBCA Civilian Board of Contract Appeals  
CFO Chief Financial Officer  
CIO Chief Information Officer  
COCO Chief of the Contracting Office  
COR Contracting Officer's Representative  
COTR Contracting Officer's Technical Representative  
CPO Chief Procurement Officer  
D&F Determination and Findings  
FOIA Freedom of Information Act  
HCA Head of Contracting Activity  
J&A Justification and Approval for Other than Full and Open Competition  
KO Contracting Officer  
MD Management Directive  
OCPO Office of the Chief Procurement Officer  
OIG Office of the Inspector General  
OSDBU Office of Small and Disadvantaged Business Utilization  
PCR SBA's Procurement Center Representative  
RFP Request for Proposal  
SBA Small Business Administration  
SBS Small Business Specialist  
SPE Senior Procurement Executive

[72 FR 1297, Jan. 11, 2007]

## PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

### Subpart 3003.1—Safeguards

Sec.

3003.101 Standards of conduct.

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## **3003.101**

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### **Subpart 3003.9—Whistleblower Protections for Contractor Employees**

3003.901 Definitions.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

## **Subpart 3003.1—Safeguards**

### **3003.101 Standards of conduct.**

#### **3003.101-3 Agency regulations.**

Government-wide and Department of Homeland Security regulations governing the conduct and responsibilities of employees are contained in 5 CFR part 2635, and MD 0480.1, Ethics/Standards of Conduct, or any replacement Management Directive.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25768, May 2, 2006]

### **Subpart 3003.2—Contractor Gratuities to Government Personnel**

#### **3003.203 Reporting suspected violations of the Gratuities clause.**

(a) Suspected violations shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the violation). The contracting officer (or the COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

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(1) The date, time, and place of the suspected violation;

(2) The name and title (if known) of the individual(s) involved in the violation; and

(3) The details of the violation (e.g., the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(4) The person reporting the violation and witnesses (if any) shall be requested to sign and date the information certifying that the information furnished is true and correct.

(b) The contracting officer shall submit the report to the COCO (unless the alleged violation was directly reported to the COCO) and the Head of the Contracting Activity (HCA) for further action. The COCO and HCA will determine, with the advice of the Component legal counsel, whether the case warrants submission to the OIG, or other investigatory organization.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25768, May 2, 2006; 71 FR 48801, Aug. 22, 2006]

#### **3003.204 Treatment of violations.**

(a) The HCA is the individual to determine whether a Gratuities clause violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of Government legal counsel should be sought to determine whether an alternate decision maker should be designated.

(b) The COCO shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are afforded to the contractor. Government legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred during the “conduct of an agency procurement” the COCO shall consult with Government legal counsel regarding appropriate action.

[68 FR 67871, Dec. 4, 2003, as amended at 71 FR 25768, May 2, 2006]

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### Subpart 3003.3—Reports Of Suspected Antitrust Violations

#### 3003.301 General.

(b) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

### Subpart 3003.4—Contingent Fees

#### 3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees.

(b)(4) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees, except reports of misrepresentation or violations of the covenant against contingent fees shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

### Subpart 3003.5—Other Improper Business Practices

#### 3003.502 Subcontractor kickbacks.

#### 3003.502-2 Subcontractor kickbacks.

(g) The DHS OIG shall receive the prime contractor or subcontractors written report.

### Subpart 3003.9—Whistleblower Protections for Contractor Employees

#### 3003.901 Definitions.

*Authorized official of an agency* means the Department of Homeland Security's CPO.

## PART 3004—ADMINISTRATIVE MATTERS

### Subpart 3004.1—Contract Execution

Sec.

3004.103 Contract clause.

### 3004.470-2

### Subpart 3004.4—Safeguarding Classified and Sensitive Information Within Industry

3004.470 Security requirements for access to unclassified facilities, Information Technology resources, and sensitive information.

3004.470-1 Scope.

3004.470-2 Policy.

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### Subpart 3004.8—Government Contract Files

3004.804 Closeout of contract files.

3004.804-1 Closeout by the office administering the contract.

3004.804-5 Procedures for closing out contract files.

3004.804-570 Supporting closeout documents.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

### Subpart 3004.1—Contract Execution

#### 3004.103 Contract clause.

Insert the clause at (FAR) 48 CFR 52.204-1, Approval of Contract, in each solicitation where approval to award the resulting contract is required above the contracting officer level.

### Subpart 3004.4—Safeguarding Classified and Sensitive Information Within Industry

SOURCE: 71 FR 25768, May 2, 2006, unless otherwise noted.

3004.470 Security requirements for access to unclassified facilities, Information Technology resources, and sensitive information.

#### 3004.470-1 Scope.

This section implements DHS's policies for assuring the security of unclassified facilities, Information Technology (IT) resources, and sensitive information during the acquisition process and contract performance.

#### 3004.470-2 Policy.

(a) DHS's policies and procedures on contractor personnel security requirements are set forth in various management directives (MDs). MD 11042.1,